IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA

**Richmond Division** 

MICHAEL HENRY HEARN,

Plaintiff,

Civil Action No. 3:13CV310

UNITED STATES,

v.

Defendant.

MEMORANDUM OPINION

Plaintiff, a Mississippi inmate, submitted this action and requested leave to proceed in

forma pauperis. The pertinent statute provides:

In no event shall a prisoner bring a civil action [in forma pauperis] if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger

of serious physical injury.

28 U.S.C. § 1915(g). Plaintiff has at least three other actions or appeals that have been dismissed

as frivolous or for failure to state a claim. See, e.g., Hearn v. Warden, No. 4:05cv18TSL-AGN,

at 3 n.2 (S.D. Miss. Jan. 28, 2005) (citing cases). Plaintiff's current pleading does not suggest

that Plaintiff is in imminent danger of serious physical harm.

By Memorandum Order entered on July 26, 2013, this Court denied Plaintiff's request to

proceed in forma pauperis and ordered him to submit the full filing fee within eleven (11) days

of the date of entry thereof. Plaintiff failed to respond to the July 26, 2013 Memorandum Order.

Accordingly, this action will be DISMISSED WITHOUT PREJUDICE. See Fed. R. Civ. P.

41(b).

An appropriate Order shall issue.

Date: 10/11/13
Richmond, Virginia

John A. Gibney, Jr.
United States District Judge